

REMARKS

Status of the claims

With entry of the this amendment, new claim 67 is added. Claims 34-36, 50, and 67 are therefore pending and under examination.

This amendment adds no new matter. New dependent claim 67 recites that the virus is an influenza virus. Support can be found, *e.g.*, at paragraph [47], which teaches that the virus can be an orthomyxovirus and that the orthomyxovirus can be an influenza virus.

The only outstanding rejections are provisional obviousness-type double patenting rejections, which are addressed below.

Provisional obviousness-type double patenting rejections

Claims 34, 36 and 50 are provisionally rejected for alleged obviousness-type double patenting over the following: claims 1-4 of co-pending Application No. 11/981,373; claims 1-4 of co-pending Application No. 11/858,844; and claims 1-3 of co-pending Application No. 11/980,833. Applicants respectfully request that the rejections be withdrawn.

The rejection is moot with regard to Application No. 11/858,844, filed September 20, 2007, as the application is now abandoned.

The current application has a filing date of July 8, 2003, which is earlier than the filing dates of Application No. 11/980,833 and Application No. 11/981,373, both of which were filed October 30, 2007. In keeping with the USPTO guidelines set forth at MPEP § 804(I)(B)(1), Applicants respectfully request that the rejections be withdrawn, as the current application has an earlier filing date and the USPTO has not yet indicated that any claims in the cited co-pending applications are in condition for allowance. Request for withdrawal of the rejections on this basis does not constitute acquiescence to the rejection, but is made to facilitate allowance.

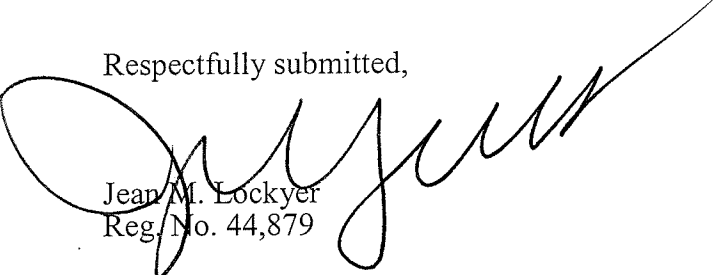
Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Appl. No. 10/614,037
Amendment dated January 18, 2011
Reply to Office Action of October 15, 2010

PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-273-4778.

Respectfully submitted,

A large, stylized handwritten signature in black ink, likely belonging to Jean M. Lockyer, is written over the typed name and registration number.

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